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October 14, 2015

Via ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Room TW-A325
Washington, DC 20554

**Re: *Ex Parte* Communication
 WC Docket No. 12-375; Inmate Calling Services**

Dear Ms. Dortch:

On October 13, 2015, the National Sheriffs' Association (NSA) met with Stephanie Weiner, Senior Legal Advisor to Chairman Wheeler, Rebekah Goodheart, Legal Advisor to Commissioner Clyburn and Madeleine Findley and Gil Strobel of the Wireline Competition Bureau to discuss the above-referenced proceeding. Jonathan Thompson and Breanna Bock-Nielsen of NSA and the undersigned participated in the meeting.

In the meeting, NSA expressed its concern that a number of Inmate Calling Service (ICS) Providers are stating that the Commission's proposed ICS rates are not sufficient to continue to provide ICS to all jails. Some are indicating that the Commission's proposal is catastrophic for their business. In light of these comments, NSA discussed whether there is any mechanism to address the possibility that some jails will no longer have available ICS service after the Commission's new rates take effect. The general waiver provision in the Commission's rules was discussed. It was discussed that because the Commission does not have jurisdiction over the Sheriffs and jails, a waiver would have to be filed by the ICS provider and the ICS provider would have to make a showing of harm more strenuous than the cost data submissions submitted in this proceeding. It was noted that the waiver process was used in this proceeding and a limited waiver was granted to PayTel for the facilities it served. However, NSA noted that PayTel's request for an extension of the waiver has been pending for approximately a year. NSA also noted that this example did not show how a waiver could be obtained for a single or a number of facilities served by an ICS provider. It also was discussed that the Commission cannot force an

ICS provider to seek a waiver and it cannot force an ICS provider to provide service in a particular facility.

NSA concluded, therefore, that there is the very real possibility that many Sheriffs will no longer have an ICS provider that is willing to provide ICS service in their jail and that there will be no remedy for the Sheriff.

NSA also expressed its concern that the Commission's proposed 90-day implementation period for its new rates and rules is not sufficient for jails. The Commission's Fact Sheet suggests that ICS providers will be able to renegotiate contracts under change of law provisions, and ICS providers have indicated that they will seek to renegotiate contracts. There are over 2000 jails in the country and only a handful of ICS providers. Therefore, each ICS provider will seek to renegotiate potentially hundreds of contracts with Sheriffs and jails in a 90-day period. Even if some portion of contracts can be renegotiated within 90 days, Sheriffs, in most cases, will then need to seek approval from county government for the renegotiated contract. Ninety-days simply is not enough time for this process to conclude. Furthermore, it is likely that some ICS providers will refuse to continue to provide service to some jails and some Sheriffs will need to or want to seek a new ICS provider. Ninety-days is not enough time for this process to conclude.

NSA discussed that it is not a solution to this problem to use a third party to conduct negotiations on behalf of Sheriffs. As an obvious problem, Sheriffs that do not already have an established relationship with a third party would first have to establish one. Interjecting a third party between the ICS provider and the facility also would result in an additional layer of negotiation and review. A third party would seem to introduce more delay in the process.

NSA concluded, therefore, that there is the very real possibility that many Sheriffs will lose their ICS provider and have no available alternative for at least some period of time, if the Commission imposes a 90-day transition period for ICS services provided to jails.

To address both of NSA's concerns and to reduce the likelihood that there will be no ICS service in potentially a large number of jails, NSA urged the Commission to provide a minimum of a one-year transition period for jails. NSA noted that the Commission frequently provides a longer transition period to small entities to implement Commission rules. For example, in a recent order, the Commission delayed the effective date of the obligation to offer 8 hours of backup power and the disclosure obligations for small providers for an additional 180 days "to afford ample time to modify their current practices as necessary to come into compliance with our rules."¹ The Commission stated that such an accommodation "is in line with Commission precedent."² The Commission also found that small providers "are more resource-constrained and would benefit from additional time to obtain any necessary equipment and prepare materials

¹ In the Matter of Ensuring Continuity of 911 Communications, Report and Order, PS Docket No. 14-174, 30 FCC Rcd 8677 at ¶97 (2015)

² In the Matter of Ensuring Continuity of 911 Communications, Report and Order, PS Docket No. 14-174, 30 FCC Rcd 8677 at ¶97 (2015)

and processes for disclosure..."³

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/ Mary J. Sisak

cc: Stephanie Weiner
Rebekah Goodheart
Madeleine Findley
Gil Strobel

³ In the Matter of Ensuring Continuity of 911 Communications, Report and Order, PS Docket No. 14-174, 30 FCC Rcd 8677 at ¶98 (2015)